

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Fabrice POURTIER et al. : Confirmation No. 3817
Serial No. 10/599,759 : Group Art Unit: 3726
Filed: October 6, 2006 : Examiner: Omgba ESSAMA
For: METHOD OF FASTENING A GUARD RAIL BY MEANS OF A GUARD RAIL BOLT,
THE GUARD RAIL BOLT AND THE TOOL FOR FASTENING THE GUARD RAIL
BOLT

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

By Official Action mailed June 30, 2010, restriction to one of the following inventions and/or species of the claimed invention is required:

Group I, claims 10-2, drawn to a method of fastening a guard rail to a concrete slab.

Group II, claim 13, drawn to a self-expanding and self-undercutting guard rail bolt.

Group III, claims 14-18, drawn to a tool for fastening a guard rail bolt.

In response, Applicants hereby elect **Group II**, upon which claim 13 is readable.

The election is made *with traverse* for the following reason(s).

Every requirement to restrict has two aspects:

- (A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from the other(s); and
- (B) the reasons why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons for insisting upon restriction. *See MPEP*, section 808 (emphasis added).

In this case, the Office has not met at least requirement (B), i.e., the reasons why there would be a serious burden on the examiner if restriction is not required. The Restriction Requirement is therefore improper and should be withdrawn or at least rephrased.

In addition, the Office's position that Groups I and II lack unity is respectfully traversed. Group II is directed to an apparatus for carrying out the process of Group I. Claim 13 readable on Group II is also dependent on claim 1 readable on Group I. Thus, a single general inventive concept exists to link Groups I and II. Restriction between Groups I and II should not be required.

In view of the above, withdrawal of the Restriction Requirement, or at least the restriction requirement between Groups I and II, and consideration of all claims, or at least claims 10-13 readable on Groups I and II, are believed appropriate and therefore courteously solicited.

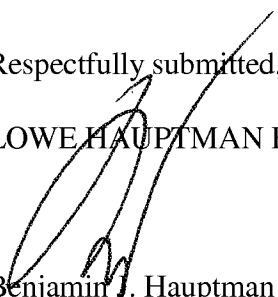
Early examination on the merits is respectfully requested.

Serial No. 10/599,759

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP



Benjamin J. Hauptman
Registration No. 29,310

USPTO Customer No. 33712
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
(703) 684-1111
(703) 518-5499 Facsimile
Date: July 12, 2010
BJH:KL/tal